

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SKI LIFTS, INC., a Washington corporation,

Plaintiff,

v.

SCHAEFFER MANUFACTURING CO., a  
Missouri corporation,

Defendant.

CASE NO. C19-0062-JCC

ORDER

This matter comes before the Court on Plaintiff's motion for relief from the dispositive motions deadline (Dkt. No. 41). Having thoroughly considered the parties' briefing and the relevant record, the Court finds oral argument unnecessary and hereby DENIES the motion for the reasons explained herein.

**I. BACKGROUND**

The Court briefly set forth the alleged facts underlying this case in a previous order and will not repeat them here. (*See* Dkt. No. 24.) On March 19, 2019, the Court held a status conference to set a case schedule. (Dkt. No. 11.) Trial was scheduled to begin on April 6, 2020, discovery was set to close 120 days before the trial commenced, and dispositive motions were to be filed 90 days before the trial commenced. (*See id.*) Thus, any dispositive motions had to be filed no later than January 7, 2020.

1 On January 7, 2020, Defendant filed a motion for summary judgment and for sanctions.  
2 (Dkt. No. 28.) On January 24, 2020, Plaintiff filed its motion for summary judgment. (Dkt. No.  
3 32.) On January 27, 2020, defense counsel notified Plaintiff's counsel that Plaintiff's motion for  
4 summary judgment was untimely under the Court's scheduling order. (*See* Dkt. No. 42 at 2.)  
5 Plaintiff acknowledges that its motion for summary judgment is untimely. (*See* Dkt. No. 41 at 3.)  
6 Plaintiff states that Plaintiff's counsel's legal assistant erroneously calendared the dispositive  
7 motions deadline as February 6, 2020—60 days before trial. (*See* Dkt. Nos. 42 at 1–2, 43 at 1–2,  
8 43-1–43-3.) Plaintiff now moves for relief from the dispositive motions deadline and requests  
9 permission to file its untimely motion for summary judgment. (Dkt. No. 41.)

## 10 **II. DISCUSSION**

11 The district court has “broad discretion in supervising the pretrial phase of litigation.”  
12 *Zivkovic v. S. Cal. Edison Co.*, 302 F.3d 1080, 1087 (9th Cir. 2002) (quoting *Johnson v.*  
13 *Mammoth Recreations, Inc.*, 975 F.2d 604, 607 (9th Cir. 1992)). Federal Rule of Civil Procedure  
14 16 requires the district court to enter “as soon as possible” a scheduling that “must limit the time  
15 to join other parties, amend the pleadings, complete discovery, and file motions.” Fed. R. Civ. P.  
16 16(b)(1)–(3). Rule 16 further provides that “[a] schedule may be modified only for good cause  
17 and with the judge's consent.” Fed. R. Civ. P. 16(b)(4). And “[o]nce the district court has filed a  
18 pretrial scheduling order pursuant to Federal Rule of Civil Procedure 16 . . . that rule's standards  
19 control[.]” *Johnson*, 975 F.2d at 607–08.<sup>1</sup>

20 The “good cause” standard set forth by Rule 16 “primarily considers the diligence of the  
21 party seeking amendment.” *Johnson*, 975 F.2d at 609; *see* Fed. R. Civ. P. 16 advisory

---

23 <sup>1</sup> Plaintiff cites Federal Rule of Civil Procedure 6(b)'s “excusable neglect” standard and  
24 related case law to argue that the Court should grant it additional time to file its motion for  
25 summary judgment. *See* Fed. R. Civ. P. 6(b); (Dkt. No. 41 at 4–6). But “when a motion to amend  
26 is filed after a scheduling order deadline, Rule 16 is the proper guide for determining whether a  
party's delay may be excused.” *Sosa v. Airprint Sys., Inc.*, 133 F.3d 1417, 1418 n.2 (11th Cir.  
1998) (citing *Johnson*, 975 F.2d at 609; *Anda v. Ralston Purina, Co.*, 959 F.2d 1149, 1155 (1st  
Cir. 1992)).

1 committee's notes (1983 amendment). "[C]arelessness is not compatible with a finding of  
2 diligence and offers no reason for a grant of relief." *Johnson*, 975 F.2d at 609 (collecting cases).  
3 "Although the existence or degree of prejudice to the party opposing the modification might  
4 supply additional reasons to deny a motion, the focus of the inquiry is upon the moving party's  
5 reasons for seeking modification . . . . If that party was not diligent, the inquiry should end." *Id.*;  
6 *see, e.g., CPALead, LLC v. Adeptive Ads LLC*, 2016 WL 4941991, slip op. at 1–2 (D. Nev.  
7 2016) (finding that party had not established good cause under Rule 16 where motion for  
8 summary judgment "was filed late for no reason other than a simple mistake regarding the due  
9 date for dispositive motions").

10 Plaintiff's justification for its untimely filing rests on the legal assistant's calendaring  
11 error. (*See* Dkt. No. 41 at 3–4, 6.) While Plaintiff may be correct that delegating certain matters  
12 is "not completely novel" in modern legal practices, (*see* Dkt. No. 58 at 1–2) (citing *Pincay v.*  
13 *Andrews*, 389 F.3d 853, 856 (9th Cir. 2004)), delegation does not absolve Plaintiff from its  
14 responsibility to comply with the Court's deadlines, *see Pincay*, 389 F.3d at 856 ("The  
15 responsibility for the error falls on the attorney regardless of whether the error was made by an  
16 attorney or a paralegal."). And the calendaring error Plaintiff relies on, regardless of origin, does  
17 not constitute good cause under Rule 16. Plaintiff has had continuous access to the Court's  
18 docket during the pendency of this case, and the Court's March 19, 2019 docket entry clearly  
19 sets forth the relevant deadlines of the Court's scheduling order. (*See* Dkt. No. 11.) During the  
20 approximately nine months between when the Court entered its scheduling order and when the  
21 dispositive motions deadline expired, Plaintiff failed check the scheduling order itself to ensure  
22 the accuracy of the legal assistant's calculation. (*See* Dkt. No. 41 at 2.) Thus, Plaintiff has failed  
23 to demonstrate that it acted with diligence and therefore has not established good cause under  
24 Rule 16. *See* Fed. R. Civ. P. 16(b)(4); *Johnson*, 975 F.2d at 607–08.<sup>2</sup>

---

25 <sup>2</sup> Moreover, additional red flags should have caused Plaintiff to check the accuracy of  
26 dispositive motions deadline calculated by the legal assistant. Plaintiff was presumably aware of  
the default rule under Federal Rule of Civil Procedure 56(b), which provides that "[u]nless a

1 **III. CONCLUSION**

2 For the foregoing reasons, Plaintiff's motion for relief from the dispositive motions  
3 deadline (Dkt. No. 41) is DENIED. The Clerk is DIRECTED to terminate Plaintiff's motion for  
4 summary judgment (Dkt. No. 32).

5 DATED this 28th day of February 2020.

6  
7  
8 

9 John C. Coughenour  
10 UNITED STATES DISTRICT JUDGE  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20

21  
22 different time is set by local rule or the court orders otherwise, a party may file a motion for  
23 summary judgment at any time until 30 days after the close of all discovery." Upon the close of  
24 discovery in December 2019, Plaintiff should have realized that the legal assistant's deadline was  
25 well beyond that set by Rule 56(b) and taken reasonable steps to ensure that her calculation was  
26 accurate. This is especially true when Defendant filed its motion for summary judgment on  
January 7, 2020—30 days after the close of discovery. (*See* Dkt. No. 28.) Plaintiff's failure to  
take any steps to ascertain the correct dispositive motions deadline under these circumstances  
further weighs against a finding of good cause under Rule 16.